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Pensions Ombudsman

Office of the Pensions Ombudsman

Annual Report 2016

Contents

Foreword by the Pensions Ombudsman	3
Section 1 - Management of Complaints	5
Introduction	5
Background	5
Transfers	7
Access to ARF options.....	7
Section 2 – 2016 Caseload Summary and Statistics	8
Figure 2.1 - 2016 Caseload Summary	8
Analysis of Detailed Complaint Cases in 2016.....	9
Figure 2.2 – Nature of New Complaint Issues	9
Figure 2.3 – Complaint Completions by reason in 2016.....	10
Figure 2.4 – Summary by Sector of new cases in 2016	11
Complaints Received by Scheme Type	11
Figure 2.5– Gender of Complainants.....	12
Section 3 – Examples of Cases dealt with in 2016.....	13
Case A: Refund of Contributions	13
Case B: Tracing of benefit from previous employment.....	13
Case C: Investment instructions not carried out	14
Case D: Access to ARF Options	14
Case E: Difficulty experienced with a transfer between pension schemes.....	15
Case F: Possible Leaving Service Benefit	15
Section 4 - Financial Statements.....	17

Foreword by the Pensions Ombudsman

The Government has decided to amalgamate the offices of the Financial Services Ombudsman (FSO) and the Pensions Ombudsman. This will require enabling legislation. The Department of Finance, together with the Department of Social Protection and the Office of the Attorney General, are currently progressing this in the Oireachtas. In the meantime, provision was made in statute to appoint the holder of the post of Financial Services Ombudsman to the post of Pensions Ombudsman.

I was appointed Financial Services Ombudsman in April 2015 and Pensions Ombudsman in May 2016. While I hold both posts under separate legislation, both offices co-operate closely and are co-located in the one building. Considerable work has been undertaken by both offices to facilitate and prepare for the amalgamation.

Notwithstanding the strong co-operation that exists between the Offices, each office must continue to operate independently of each other, pending the enactment of the enabling legislation. This necessitates the production of separate Annual Reports, in compliance with the separate legislation that presently governs each Office.

It gives me pleasure to submit the Annual Report and Accounts for 2016 for the Office of the Pensions Ombudsman to Ms. Regina Doherty TD, Minister for Social Protection.

This Report provides an over-view of the work and activities of the Office, together with details of the associated costs for the 2016 financial year. Included in this Report is a commentary on and some examples of the cases we handled during 2016. I hope that this will prove helpful to scheme members and those involved in pension scheme administration and complaint-handling as well as to potential complainants and to their advisors.

The role of the Office is to investigate and adjudicate, in an independent and impartial manner, on complaints relating to occupational pension schemes, Personal Retirement Savings Accounts (PRSAs) and Trust Retirement Annuity Contracts involving maladministration and financial loss, and on disputes of fact or law, that may arise in relation to such complaints.

The complaint handling process has evolved since the establishment of the Office, so that only a small number of the cases we investigate result in the production of a formal legally binding determination, as provided for under Section 139 of the Pensions Act 1990, as amended.

Our preferred method of resolving complaints is through informal means including mediation between the parties, or by providing the parties with an independent and impartial report containing guidance/clarification of their benefit entitlement and on the dispute issues. This is how the majority of complaints are now resolved.

In our experience, the handling of complaints in this informal manner has proven to be an effective means of dispute resolution, resulting in speedier and less confrontational outcomes and a better service. This has been borne out by feedback from service users.

During 2015, in co-operation with the Financial Services Ombudsman's Bureau, the Office participated in an independent review of our operations. As part of the process we consulted with our stakeholders. The feedback we received as part of this process indicated that our service users favoured a continuation of the informal approach to dispute resolution adopted by the Office.

A copy of the Strategic and Operational Review Report, published in January 2016, is available on our Website.

Almost 66% of cases closed in 2016 were resolved through informal methods involving mediation, guidance or reporting, while legally binding determinations were only issued in 1.33% of the cases closed. Details of all closure reasons are set out in Figure 2.3 *Complaint Completions by Reason in 2016* in this Report.

I can confirm that the Office will continue to assist pension scheme members and holders of Personal Retirement Savings Accounts (PRSAs) with their pension-related complaints and enquiries, in as practical and customer-focused a manner as possible with the resources available to us.

The continued resolution of complaints in 2016 would not have been achieved without the commitment and support of our staff and stakeholders.

I would like to thank the Management and Staff of the Office of the Pensions Ombudsman who continued to demonstrate their dedication and hard work in the face of a steady workload and challenging and changing times as we serve our customers and continue to prepare for the merger.

I would also like to thank the Staff of the Financial Services Ombudsman's Bureau for their co-operation and support.

Thanks also to the Department of Social Protection for the operational support given to the Office.

Finally, I would like to thank and pay tribute to Paul Kenny who was appointed the first Pensions Ombudsman in 2013 and remained in the role until his retirement in 2016. Paul was passionate about the role and the work of the Office. His achievements have been well documented and I would like to thank him for his work and for his support and assistance to me on taking up my role – both as Financial Services Ombudsman and more recently as Pensions Ombudsman. I wish Paul health and happiness in his retirement.



Ger Deering

Pensions Ombudsman

30 June 2017

Section 1 - Management of Complaints

Introduction

An examination of the statistical information set out in Section 2 of this report shows that the majority of the new complaints submitted to the Office in 2016 relate to the establishment, tracing, calculation and payment of pension scheme benefits.

Many people approach retirement age with an expectation that pension entitlements attach to all of their employments, when in reality they may not. This is particularly the case in relation to more historic employments.

Background

At present, under Irish Law, there is no obligation on employers to provide a pension scheme for their employees. However, since 2003, employers who do not operate a pension scheme must facilitate access to a Personal Retirement Savings Account (PRSA) for those of their employees who wish to make pension provision.

Until the introduction of various protections, by way of preservation and disclosure of information requirements, under the Pensions Act 1990, pension schemes did not have to apportion any benefit to staff who left employment before retirement age. Neither did they have to notify members of any entitlements they may have under the pension scheme on leaving service or in the event of the scheme being altered or wound up, although it would have been considered good administrative practice to do so.

During the recession a large number of defined benefit schemes either reduced benefits or were wound up, businesses failed and the closure of pension schemes followed.

As a result, there is a large cohort of workers who may have no, or a reduced level of pension scheme entitlement, attaching to periods of past service and more who are unclear about possible benefits. Very often it is not until retirement is fast approaching that details of prior pension benefits are sought. With the passage of time since leaving a previous employment and the changes that may have occurred to the former employer's business and pension scheme, it can then prove difficult to establish if any pension entitlement attached and to trace and put this into payment.

In our experience, many current scheme members are not familiar enough with the terms applying under their pension scheme or the basis of computing benefits thereunder. If it is left until close to retirement age to determine pension scheme entitlement, members may find themselves with inadequate pension provision and little time to improve their position.

It is a fact that people are living longer, with improvements in life expectancy expected over time. The life expectancy of a male currently aged 65 is more than 86 years and of a female currently aged 65 is more than 88 years. With an expectation of having 20 plus years in retirement there is a need to have sufficient benefits in place to provide an adequate income in retirement. Understanding what benefit entitlements are available under a pension scheme or PRSA is the first step in the retirement planning that is crucial to achieving this.

Under the disclosure requirements of the Pensions Act 1990, as amended, pension scheme members and holders of PRSAs are to be provided with regular information about their benefit entitlements. It would appear that, in the main, the pension scheme authorities and PRSA providers comply with their reporting obligations. The benefits and various options open to members, particularly at retirement can be complex and confusing. To adequately cover these and to meet the reporting obligations can result in the production of detailed technical reports, which do not make easy reading. In our experience many members pay scant attention to the benefit statements and reports they receive or find them confusing and indecipherable.

However, if time and effort is not given by members to understanding the terms that apply under their pension scheme or PRSA, the process of maturing their retirement benefits can be a disappointing and fraught experience. They can arrive at retirement with an expectation of a type and level of benefit, which differs from the reality of what is available, with little opportunity to improve the situation.

It is for this reason that we would encourage pension scheme authorities and PRSA providers to work on improving the quality of their reporting to members, so that it does not just comply with the statutory disclosure requirements but provide meaningful information about their pension benefits and also to have guidance and assistance available to members who seek it.

We would encourage scheme members and PRSA policyholders to engage with the providers, to acquaint themselves with the terms applying to their particular pension arrangement, to consider the regular statements and reports supplied to them and to raise queries and request explanations if matters relating to their pension entitlement are not clear or understood by them.

Our hope is that better communication and engagement between the parties involved in the pension schemes and PRSAs will result in members having a better and more realistic understanding of their entitlements and thus enable them to plan for the adequacy of retirement benefits.

Transfers

The Office of the Pensions Ombudsman continues to receive complaints relating to difficulties experienced in effecting transfers between pension arrangements. Most of these in 2016 related to delays that occurred in the transfer process, with claims of resultant financial loss. Transfers are seldom speedy transactions with both the paying and receiving pension schemes required to undertake certain checks and to meet various obligations before the transfer can proceed. Restrictions do apply to certain proposed transfers, e.g. between Occupational Pension Schemes and Personal Pension arrangements (known as Retirement Annuity Contracts or RACs), and the requirements to be fulfilled to allow a transfer to Personal Retirement Annuity Contracts (PRSAs) or to overseas pension arrangements can prove problematic and can stall or result in a transfer not being able to proceed.

Access to ARF options

In the Pensions Ombudsman's 2014 Annual Report, comment was made on the fact that access at retirement to Approved Retirement Fund (ARF) options was with-held from holders of Buy Out Bonds (a.k.a. Personal Retirement Bonds) that originated from Defined Benefit Pension Schemes, and that the Pensions Ombudsman had made representations for this to be changed. The Minister for Finance removed this obstacle by announcing a policy change on 22nd June 2016 that, going forward, will allow holders of such bonds access at retirement to ARF options.

Section 2 – 2016 Caseload Summary and Statistics

The Office of the Pensions Ombudsman received 1,222 new complaints in 2016. This represents a decrease of 14% on the number of complaints received in 2015. While it is not possible to determine exactly what drives movement in complaint submissions it is likely that continued growth on investment markets and a stabilising of pension fund values has been a contributing factor as has the bedding down of changes that were applied under many occupational pension schemes over the last few years.

We had 100 cases on hand at the beginning of 2016. During 2016 we reopened 19 cases and received 1,222 new cases to give a total caseload of 1,341 for 2016.

Having completed 1,281 cases during 2016, we ended the year with 60 complaint cases on hand. This represents a 40% reduction in the number of cases on hand at the end of 2016 compared to the end of 2015.

All new cases submitted to the Office are initially examined to determine what the complaint issues are and the best method of dealing with them. Account must also be taken of whether or not the complaint issues fall within our legislative remit and within the time limits that apply. Where it is considered that the issues might be resolved by providing clarification on the complainant's entitlements or an independent assessment of the matters in dispute or by offering mediation between the parties, then we initially employ such methods, very often through telephone or email contact, or the production of a guidance report.

If this approach does not resolve the complaint then it may become necessary to initiate a formal investigation, which would result in the issuance of a legally binding Final Determination, as provided for under Section 139 of the Pensions Act 1990, as amended.

Of the 1,281 cases completed in 2016, 302 were cases for which detailed complaint files were opened. Our examination of these cases resulted in the production of only four formal Determinations in 2016.

Figure 2.1 - 2016 Caseload Summary

Year	New Cases Received	Cases Carried Forward	Cases Re-opened	Total 2016 caseload	Cases Completed	Cases on hand at year-end
2016	1,222	100	19	1,341	1,281	60

Analysis of Detailed Complaint Cases in 2016

This section of the report sets out the detail of complaint cases dealt with in 2016. We maintain comprehensive statistics only on cases for which we open detailed complaint files.

As stated, we started 2016 with 100 complaint cases on hand. During 2016 we re-opened 19 earlier cases, and set up 243 new detailed complaint cases, to give us a caseload of 362 detailed complaint cases. Having closed 302 of these during 2016, we finished the year with 60 detailed complaint cases on hand.

Figure 2.2 – Nature of New Complaint Issues

Nature of Investigation	2015	2016
Abatement/Supplementary Pension	1	2
Additional voluntary contributions	3	1
ARF/AMRF queries	2	2
Buy out Bonds	1	2
Calculation of benefits	64	55
Contribution refunds	3	2
Disclosure of information	35	22
Early retirement	3	3
Equal Treatment Issue	1	2
Fund values	34	12
General enquiry	3	0
Ill health	4	8
Incorrect / late/ no benefit payment	33	29
Incorrect info giving rise to false expectation	4	7
Membership/ entry conditions	13	11
Mis-selling	4	1
Pension Liberation	6	3
Pensions Adjustment Orders	5	4
Post-retirement increases	0	4
Preservation of benefits	8	7
Remittance of contributions	19	4
Spouses' and dependants' benefits	11	8
Transfers	11	10
Winding up	10	8
Years of service -cost of / credit for	39	36
Total	317	243

Figure 2.3 – Complaint Completions by reason in 2016

Completions by Reason	2015	2016
Advised of need for IDR	14	29
Appeal - Determination Upheld	3	1
Appeal - Not Proceeded With	1	2
Complaint not proceeded with	44	32
Enforcement completed	1	1
Final Determination - Complaint Not Upheld	21	1
Final Determination - Complaint Upheld	9	3
Investigation not possible due to legal action	1	1
OTOR	20	11
OTOR - Refer to Other Ombudsman/Regulator	19	9
Report and Guidance Given	214	186
Successful Mediation	45	22
Unsuccessful Mediation	1	4
Total	393	302

* OTOR = Outside Terms of Reference

As has been our practice over the last number of years, we now close the majority of cases without the need to issue a legally binding determination. As the above table demonstrates, Final Determinations were issued in just over 1% of the cases completed in 2016. We have found that adopting a less formal mediation or reporting/guidance approach has enabled us to clarify complaint issues, offer an independent assessment and move matters towards resolution in a less confrontational and speedier manner, thereby providing a better customer service.

Figure 2.4 – Summary by Sector of new cases in 2016

Scheme Type	2015	2016
Public Sector Scheme	128	112
Private Sector Scheme	182	129
Personal Retirement Savings Account (PRSA)	5	1
	315	242
Not specified	2	1
Total	317	243

The Pensions Ombudsman can examine complaints and disputes arising under both Private and Public Sector Pension Schemes, although he is not authorised to examine complaints or disputes relating to State Benefits payable by the Department of Social Protection, which has its own appeals office.

The percentage of overall complaints that relate to public service schemes rose from 40% in 2015 to 46% in 2016. The nature of the complaints that are submitted to the Office does not provide a definitive reason for this. However, the level of complaints received about benefit calculation, membership/entry conditions, service credit and costs and incorrect/late or no benefit payment remains high. A lot of these relate to public service schemes.

While the number of complaints received from both public and private sectors have fallen, it appears that public service complaints are falling at a slightly slower rate than those from the private sector.

Complaints Received by Scheme Type

Scheme Type 2016

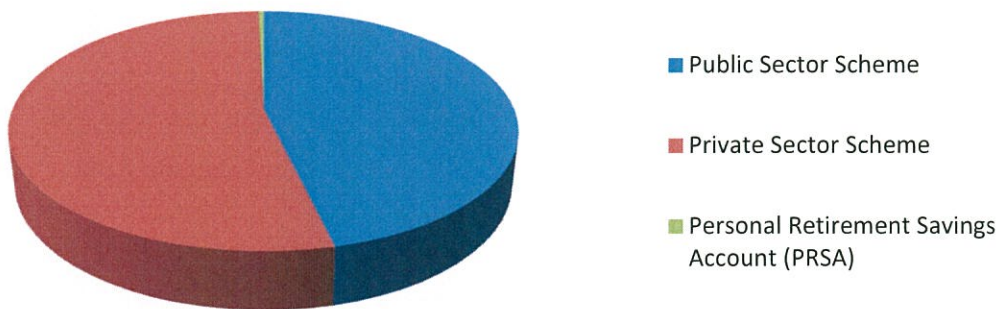
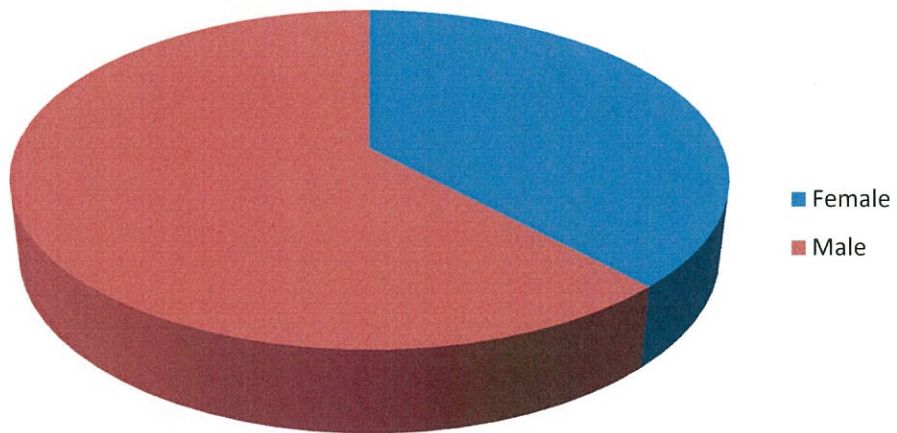


Figure 2.5- Gender of Complainants

Gender	2015		2016	
	Number	Percent	Number	Percent
Not specified	2	1%	1	0%
Female	110	35%	92	38%
Male	205	65%	150	62%
Total	317		243	

The percentage of complaints received from female complainants showed a small increase, from 35% in 2015 to 38%, in 2016.

Gender Breakdown 2016



Section 3 – Examples of Cases dealt with in 2016

Case A: Refund of Contributions

The Pensions Ombudsman received a complaint from a woman who had worked for a company in the 1970s and had been included in their retirement benefit scheme. She claimed that the trustees of that scheme were refusing to provide her with a benefit in respect of the service she had completed.

An investigation of the case established that she had been a member of a gratuity scheme to which she contributed while working for the company. The gratuity scheme provided for a refund of employee contributions on the formal termination of employment before retirement.

While the complainant had not worked for the company for over 30 years she had never formally resigned and there was no evidence that the company had formally terminated her employment. She was able to produce evidence to show that she had been given permission by the company to take open-ended unpaid leave for family reasons. She claimed that when she was in a position to return to work many years later the company was unable to offer her any employment.

As her employment had never formally been terminated, the Ombudsman concluded that she had not received the refund of contributions that was due to her. He directed that the refund, with an adjustment for inflation, be paid to her.

Case B: Tracing of benefit from previous employment

We were contacted by a man seeking assistance in tracing a pension scheme entitlement that he had been advised attached to an employment he left in 1990. What was peculiar about this case was that the benefit in question derived only from the member's own contributions and yet he had not been offered a refund of contributions on leaving the scheme in 1990 – as would have been the more standard practice at that time.

With the passage of time since 1990, the scheme had undergone a series of changes, including the appointment of new administrators and investment managers. In addition it had been wound up in a deficit position in 2006. On wind up, all of the assets were distributed amongst the members recorded as having benefit entitlements. Because the complainant's benefit derived only from his own contributions it was not properly recorded as a preserved benefit entitlement and no provision was made under the scheme for a benefit in his respect. Thus, on the scheme's wind up the complainant was not included in the distribution of assets.

This complaint fell outside of the time limits that apply to the Pensions Ombudsman's jurisdiction so he did not have the authority to formally adjudicate and issue a determination on the matter. However, having established that the complainant had suffered financial loss in being deprived of his pension scheme entitlement, the Ombudsman proceeded to liaise with the former scheme administrators on the issue of possible restitution. He was satisfied with the responsible and sympathetic approach the former scheme administrators adopted in resolving the matter.

Case C: Investment instructions not carried out

The complainant alleged that his pension contributions were transferred, without his knowledge or instruction, to a fund with a lower risk profile than the investment fund he had chosen. He also alleged that when he issued an instruction to move his contributions to a fund with a higher risk profile, his instruction was not carried out.

As a member of an occupational pension scheme, his contributions were initially invested in a medium risk fund which was one of the options then available. As part of the process of appointing a new administrator and provider for the scheme, the members' funds were moved from this fund to the default investment option of the scheme, which was a fund with a low risk profile.

The trustees arranged for member briefings at which the plans for the revised scheme were detailed. The complainant did not attend any of the briefings even though he had been notified of them. He remained unaware that the changes made to the scheme had resulted in a change to the risk profile of his investment fund, until he received a benefit statement from the administrators.

When he discovered what had happened he immediately issued an instruction to the trustees to raise the risk profile of his fund. The trustees passed his instruction to the scheme broker. The broker should have passed the instruction to the provider who was in a position to act on the instruction.

The broker had no record of sending the instruction to the provider and the provider had no record of receiving the instruction, so the available evidence suggested that the broker had not passed on the instruction to the provider.

The Pensions Ombudsman directed the broker to pay a sum into the complainant's fund that would restore it to the position it would have been in if the complainant's instruction had been passed to the provider in good time.

That part of the complaint relating to the transfer of funds to a lower risk fund without his knowledge, was not upheld. The view was taken that the complainant was responsible for failing to attend the briefings at which the changes to the scheme were announced.

Case D: Access to ARF Options

A complaint relating to an ARF was submitted to the Pensions Ombudsman in June 2016. By then, the Minister for Finance had announced a policy change to be implemented from 22nd June 2016 that would allow holders of Buy Out Bonds, that originated from Defined Benefit Pension Schemes, to avail of ARF options at retirement. The Pensions Ombudsman was able to confirm this position to the complainant and refer him back to the insurance provider, to have his Buy Out Bond benefits administered in accordance with this changed policy on retirement.

Case E: Difficulty experienced with a transfer between pension schemes

A complaint was submitted about the problems experienced in effecting a transfer between occupational pension schemes, following a change of employment. The person in question was a member of the Defined Benefit (DB) and Additional Voluntary Contribution (AVC) schemes of the first employer. On leaving that employment he requested a transfer of these benefits to his new employer's scheme.

The Trustees consented to this and a transfer value was paid into his new employer's pension scheme. However, it transpired that the amount transferred only represented the value of his AVC benefit and did not include the value of his main DB scheme benefit.

The Revenue Commissioners stipulate that AVC benefits must be administered in tandem with main pension scheme benefits. Thus, AVC benefits should not be transferred out without the main scheme benefits being likewise transferred.

This error was only discovered two years after the event and the then value of the AVC benefit was returned to the original scheme. However, by that time a lesser value attached to this due to poor investment performance achieved under the receiving fund.

The proper management of a transfer between pension schemes requires the co-operation and attention of both the paying scheme and the receiving one. Both sides in the transaction have responsibilities and duties to fulfil.

Following an examination of the case submitted, it was established that an act of maladministration had occurred that resulted in financial loss to the complainant. With the co-operation of the parties involved, a resolution proposal was agreed that reversed the effects of the ill-fated transfer and made good the financial loss the complainant was deemed to have suffered.

Case F: Possible Leaving Service Benefit

The complainant had been a member of a non-contributory occupational pension scheme for 14 years up to March 1991, when he left employment. He received no notification at the time of any leaving service pension scheme benefit due to him but understood that he had an entitlement to such a benefit.

On approaching age 65 he made enquiries from his former employer about the payment of retirement benefits to him. He was dismayed to be told that no benefit had been preserved for him under the scheme and requested an explanation of his former employer.

It was explained to him that the preservation of pension scheme benefits was only introduced, from 1st January 1991, under the terms of the Pensions Act 1990, on a phased basis. The provisions related to scheme members who left employment before the normal retirement date applying under the relevant scheme and were not applied retrospectively. They required a scheme member to have completed 5 years of scheme membership, two of which had to have dated from after 1st January 1991, to qualify on leaving service for an entitlement to accrued pension scheme benefits. It was pointed out that as he left the employment in March 1991, he could not satisfy these requirements and hence did not qualify for a preserved benefit under the pension scheme.

The matter was submitted as a complaint to the Ombudsman, where it was examined to establish the facts. We reported that the information given to the complainant was correct and that based on his prior scheme membership he did not have a statutory entitlement to, nor was he given any expectation of a preserved pension benefit, attaching thereto.

Our legislative remit precludes us from making an award to a complainant that would grant him or her a benefit in excess of what the pension scheme rules, over-riding legislation and Revenue practice would entitle that person to. In the circumstances of this case, the Ombudsman found that there had been no maladministration of the complainant's benefit under the scheme, and that he did not have any statutory entitlement to a preserved pension benefit on leaving service. As a consequence, the complaint could not be upheld nor any award made by the Ombudsman.

Section 4 - Financial Statements

Office of the Pensions Ombudsman

Financial Statements

For the year ended 31st December 2016

Contents	Page
Report of the Comptroller and Auditor General	1
Statement of Responsibilities of the Pensions Ombudsman	2
Statement on Internal Financial Control	3
Statement of Income and Expenditure and Retained Revenue Reserves	4
Statement of Comprehensive Income	5
Statement of Financial Position	6
Statement of Cash Flows	7
Notes to the Financial Statements	8 - 12



Comptroller and Auditor General

Report for presentation to the Houses of the Oireachtas

Office of the Pensions Ombudsman

I have audited the financial statements of the Office of the Pensions Ombudsman for the year ended 31 December 2016 under the Pensions Act 1990, as amended. The financial statements comprise the statement of income and expenditure and retained revenue reserves, the statement of comprehensive income, the statement of financial position, the statement of cash flows and the related notes. The financial statements have been prepared in the form prescribed under Section 143 of the Act, as amended and in accordance with generally accepted accounting practice in Ireland.

Responsibilities of the Pensions Ombudsman

The Pensions Ombudsman is responsible for the preparation of the financial statements, for ensuring that they give a true and fair view and for ensuring the regularity of transactions.

Responsibilities of the Comptroller and Auditor General

My responsibility is to audit the financial statements and report on them in accordance with applicable law.

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation.

My audit is carried out in accordance with the International Standards on Auditing (UK and Ireland) and in compliance with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements, sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of

- whether the accounting policies are appropriate to the circumstances of the Office of the Pensions Ombudsman, and have been consistently applied and adequately disclosed
- the reasonableness of significant accounting estimates made in the preparation of the financial statements, and
- the overall presentation of the financial statements.

I also seek to obtain evidence about the regularity of financial transactions in the course of audit.

Opinion on the Financial Statements

In my opinion, the financial statements:

- give a true and fair view of the assets, liabilities and financial position of the Office as at 31 December 2016 and of its income and expenditure for 2016; and
- have been properly prepared in accordance with generally accepted accounting practice in Ireland.

In my opinion, the accounting records of the Office were sufficient to permit the financial statements to be readily and properly audited. The financial statements are in agreement with the accounting records.

Matters on which I Report by Exception

I report by exception if I have not received all the information and explanations I required for my audit, or if I find

- any material instance where money has not been applied for the purposes intended or where the transactions did not conform to the authorities governing them, or
- the statement on internal financial control does not reflect the Office's compliance with the Code of Practice for the Governance of State Bodies, or
- there are other material matters relating to the manner in which public business has been conducted.

I have nothing to report in regard to those matters upon which reporting is by exception.

Mary Henry

**For and on behalf of the
Comptroller and Auditor General**

30 June 2017

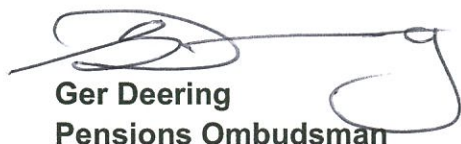
Statement of Responsibilities of the Pensions Ombudsman

Section 143(1) of the Pensions Act 1990, as inserted by Section 5 of the Pensions (Amendment) Act, 2002 requires the Pensions Ombudsman to prepare financial statements in such form as may be approved by the Minister for Social Protection after consultation with the Minister for Public Expenditure and Reform recording all proper and usual accounts of money received and expended by it. In preparing those financial statements, the Ombudsman is required to:

- Select suitable accounting policies and then apply them consistently.
- Make judgements and estimates that are reasonable and prudent.
- State whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements.
- Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Office will continue in operation.

The Ombudsman is responsible for keeping adequate accounting records, which disclose in a true and fair manner at any time the financial position of the Office and which enable it to ensure that the financial statements comply with Section 143(1) of the Act.

The Ombudsman is also responsible for safeguarding the assets of the Office and for taking reasonable steps for the prevention and detection of fraud and other irregularities.


Ger Deering
Pensions Ombudsman

30 June 2017

Statement on Internal Financial Control

Responsibility for the System of Internal Financial Control

The Office of the Pensions Ombudsman is a small office where staffing and outsourcing costs in 2016 represented 67% of total expenditure.

As Pensions Ombudsman, the responsibility for ensuring that an effective system of internal controls is maintained and operated falls to me. Any such system can provide reasonable, but not absolute, assurance that transactions are certified, authorised and properly recorded, assets are safeguarded and that material errors or irregularities are either prevented or are detected in a timely manner.


The staff of this Office strive to ensure that there is a robust system of financial control in place. Information on expenditure is supplied regularly to management and transparent administrative procedures are in force, including segregation of duties through a clear system of delegation.

The financial control system includes the following procedures:

- An annual estimate of financial requirements is provided to the Department of Social Protection, who fund the Office.
- When the budget for the year is agreed, a monthly profile of expenditure is prepared.
- All expenditure by this Office is recorded on the Department's general ledger accounting system. A monthly expenditure report is prepared by the Department's accounts branch and submitted to the Office, where it is checked against and reconciled with the records held in the Office.
- A monthly statement of expenditure which compares the actual expenditure with estimates is prepared and circulated to members of staff and is reviewed by myself.
- A twice yearly report is provided to the Department which compares estimated and actual expenditure.
- A segregation of duties exists between the certification, authorisation and execution of payments.
- All pay (and related calculations) and non-pay payments are made by the Department.
- The draft annual accounts are prepared by an independent auditing company prior to submission to the Comptroller & Auditor General.
- An internal audit function operates in the Office, together with documented financial procedures and a petty cash ledger.

In addition, an internal audit function is available within the Department of Social Protection. Any audit of Departmental pay function will cover the larger part of the expenditure by this Office. Payroll control monitoring is conducted on a monthly basis.

~~I confirm~~ that I reviewed the Office's system of internal financial control during the year 2016.


Ger Deering,
Pensions Ombudsman

 **June 2017**

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

Statement of Income and Expenditure and Retained Revenue Reserves

for the year ended 31 December 2016

	Notes	2016	2015
Income		€	€
Oireachtas Grant	1(d)	533,110	876,836
Less Superannuation Contributions Repaid	9(a)	(2,003)	(5,334)
Net Oireachtas Grant		<u>531,107</u>	<u>871,502</u>
Net Deferred Pension Funding	9(c)	19,000	50,000
Other Income	2	68,493	96,811
Less Other Income Remitted	2	(68,493)	(96,811)
Total Income		<u>550,107</u>	<u>921,502</u>
Expenditure			
Marketing and Promotional Expenditure		15,708	26,279
Consultancy Costs		11,759	91,824
Remuneration	3(a)	384,329	412,909
Legal Fees		60,440	209,344
Operating Expenditure	4	115,804	132,270
Total Expenditure		<u>588,040</u>	<u>872,626</u>
(Deficit)/surplus for the year before Appropriations		(37,933)	48,876
Transfer from/(to) Capital Account	6	4,350	(40,731)
(Deficit)/surplus for the year after Appropriations		(33,583)	8,145
Balance brought forward at 1 January 2016		(18,854)	(26,999)
Balance carried forward at 31 December 2016		<u>(52,437)</u>	<u>(18,854)</u>

The Statement of Cash Flows and notes 1 to 11 form part of these financial statements.


Ger Deering
Pensions Ombudsman

30 June 2017


**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

Statement of Comprehensive Income

for the year ended 31 December 2016

	Notes	2016	2015
		€	€
(Deficit)/surplus after appropriations		<u>(33,583)</u>	<u>8,145</u>
Experience gain/(loss) on retirement benefit obligations	9(d)	27,000	(20,000)
Changes in assumptions underlying present value of retirement benefit obligations		-	-
Total actuarial gain/(loss) in the year	9(b)	<u>27,000</u>	<u>(20,000)</u>
Adjustment to retirement benefits funding		(27,000)	20,000
Other comprehensive income for the year		<u>(33,583)</u>	<u>8,145</u>

The Statement of Cash Flows and notes 1 to 11 form part of these financial statements.


 Ger Deering
 Pensions Ombudsman


 June 2017

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

Statement of Financial Position at 31 December 2016

	Note	2016 €	2015 €
Fixed Assets			
Property, Plant & Equipment	5	44,634	48,984
Current Assets			
Receivables and Prepayments	7	7,274	8,217
Cash and Cash Equivalents		325	163
		<u>7,599</u>	<u>8,380</u>
Current Liabilities (amounts falling due within one year)			
Payables	8	<u>60,036</u>	<u>27,234</u>
Net Current Liabilities		(52,437)	(18,854)
Retirement Benefits			
Deferred retirement benefit funding asset	9(d)	330,000	406,000
Retirement benefit obligations	9(b)	(330,000)	(406,000)
Total Net (Liabilities)/Assets		<u><u>(7,803)</u></u>	<u><u>30,130</u></u>
Representing			
Capital Account	6	44,634	48,984
Retained Revenue Reserves		(52,437)	(18,854)
		<u><u>(7,803)</u></u>	<u><u>30,130</u></u>

The Statement of Cash Flows and notes 1 to 11 form part of these financial statements.


 Ger Deering
 Pensions Ombudsman

 June 2017

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

Statement of Cash Flows

for the year ended 31 December 2016

	2016	2015
	€	€
Net cash flows from operating activities		
Excess (expenditure over income) / income over expenditure	(37,933)	48,876
Depreciation	6,152	7,833
Loss on disposals	627	3,699
Decrease in receivables and prepayments	943	1,136
Increase/(decrease) in payables	32,802	(9,379)
Net cash inflow from operating activities	<u>2,591</u>	<u>52,165</u>
Cash flow from investing activities		
Payments to acquire property, plant and equipment	<u>(2,429)</u>	<u>(52,263)</u>
Net increase/(decrease) in cash and cash equivalents	<u>162</u>	<u>(98)</u>
Cash and cash equivalents at 1 January	163	261
Cash and cash equivalents at 31 December	<u>325</u>	<u>163</u>

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

Notes to the Financial Statements

1 Accounting Policies

The basis of accounting and significant accounting policies adopted by the Office of the Pensions Ombudsman are set out below. They have all been applied consistently throughout the year and for the preceding year.

(a) General Information

The Office of the Pensions Ombudsman is an independent and impartial body, established in 2003, pursuant to Part XI of the Pensions Act 1990, as inserted by the Pensions (Amendment) Act 2002.

The primary objectives of the Office of the Pensions Ombudsman, as set out in the Act are to examine, investigate and decide, in an independent, impartial and equitable manner, on complaints and disputes concerning occupational pension schemes, Personal Retirement Savings Accounts (PRSAs) and Trust RACs, and to grant redress, where appropriate.

The Pensions Ombudsman is a Public Benefit Entity (PBE).

(b) Statement of Compliance

The financial statements of the Office of the Pensions Ombudsman for the year ended 31 December 2016 have been prepared in accordance with FRS 102, the financial reporting standard applicable in the UK and Ireland issued by the Financial Reporting Council (FRC), as promulgated by Chartered Accountants Ireland. The date of transition to FRS 102 is 1 January 2014. The transition to FRS 102 has not affected its reported financial position or financial performance.

(c) Basis of Preparation

The financial statements have been prepared under the historical cost convention, except for certain assets and liabilities that are measured at fair values as explained in the accounting policies below. The financial statements are in the form approved by the Minister of Social Protection, with the concurrence of the Minister for Public Expenditure and Reform, as provided for under Section 143(1) of the Pensions Act 1990. The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the Office of the Pension Ombudsman's financial statements.

(d) Revenue

Oireachtas Grants

Oireachtas Grant represents the total payments made by the Department of Social Protection on behalf of the Office, in the year of account. Funding for the Office of the Pensions Ombudsman is provided by the Department of Social Protection which makes all payments on behalf of the Office. The total grant matches the sum charged to the Appropriation Account of that Department.

Other Revenue

Other income which relates mainly to court awards of legal costs in favour of the Office of the Pensions Ombudsman are brought to account on a cash receipts basis.

(e) Property, Plant, & Equipment

Property, plant and equipment are stated at cost less accumulated depreciation. Depreciation is provided on all property, plant and equipment at rates estimated to write off the cost less the estimated residual value of each asset on a straight line basis over their estimated useful lives, as follows:

IT, Hardware, Software and Office Equipment	20% Straight Line
Furniture and Fittings	10% Straight Line

(f) Receivables & Prepayments

Receivables and prepayments are recognised at fair value.

(g) Employee Benefits

Short Term Benefits

Short term benefits such as holiday pay are recognised as an expense in the year, and benefits that are accrued at year-end are included in the Payables figure in the Statement of Financial Position.

(h) Retirement Benefits

Retirement provision for the staff of the Office, who are Civil Servants, is made under the appropriate defined benefit Civil Service Superannuation Schemes. The Single Public Service Pension Scheme applies to new public servants appointed to pensionable positions on or after 1st January 2013.

Pension costs reflect pension benefits earned by employees, and are shown net of staff pension contributions which are remitted to the Department of Social Protection. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable, and offset by grants received in the year to discharge pension payments.

These superannuation schemes are funded on a pay-as-you-go basis from monies provided by the Department of Social Protection and from contributions deducted from the salaries of staff.

The Department of Social Protection manages the payroll function for the staff of the Office of the Pensions Ombudsman. Employee's superannuation contributions are deducted from salaries and remitted by the Department of Social Protection.

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

1 Accounting Policies (continued)

Section 130 of the Pensions Act 1990, conferred the power on the Minister for Social Protection, with the consent of the Minister for Public Expenditure and Reform, to provide for the establishment of a separate superannuation scheme for the Pensions Ombudsman. The legislation to support this was enacted under Statutory Instrument No. 433 of 2015, with a commencement date of 28th April 2003.

This established a defined benefit scheme for the Pensions Ombudsman, where pension scheme liabilities are measured on an actuarial basis, using the projected unit method.

Pension costs reflect pension benefits earned by the Pensions Ombudsman in the period and are shown net of his pension contributions, which are retained by the Department of Social Protection. An amount corresponding to the pension charge is recognised as income to the extent that it is recoverable and offset by grant received in the year to discharge pension payments.

Actuarial gains or losses arising from changes in actuarial assumptions and from experience surpluses and deficits are recognised in the Statement of Comprehensive Income for the year in which they occur and a corresponding adjustment is recognised in the amount recoverable from the Department of Social Protection.

Retirement Benefits represent the present value of future retirement benefit payments earned by the Ombudsman to date. Deferred retirement benefits represents the corresponding asset to be recovered in future periods from the Department of Social Protection.

(i) Critical Accounting Judgements and Estimates

The preparation of the financial statements requires management to make judgements, estimates and assumptions that affect the amounts reported for assets and liabilities as at the balance sheet date and the amounts reported for revenues and expenses during the year. However, the nature of estimation means that actual outcomes could differ from those estimates. The following judgements have had the most significant effect on amounts recognised in the financial statements.

Depreciation and Residual Values

The Ombudsman has reviewed the asset lives and associated residual values of all fixed asset classes, and in particular, the useful economic life and residual values of fixtures and fittings, and have concluded that asset lives and residual values are appropriate.

Retirement Benefit Obligation

The assumptions underlying the actuarial valuations for which the amounts recognised in the financial statements are determined (including discount rates, rates of increase in future compensation levels, mortality rates and healthcare cost trend rates) are updated annually based on current economic conditions, and for any relevant changes to the terms and conditions of the pension and post-retirement plans.

The assumptions can be affected by:

- (i) the discount rate, changes in the rate of return on high-quality corporate bonds
- (ii) future compensation levels, future labour market conditions
- (iii) health care cost trend rates, the rate of medical cost inflation in the relevant regions.

(j) Capital Account

The Capital Account represents the unamortised value of income applied for capital expenditure.

(k) Statement of Cash Flows

A statement of cash flows is prepared in accordance with FRS 102 and is included at page 7.

2 Other Income

Other income of €68,493 (2015: €96,811) received in 2016 relates to legal costs awarded by the Courts in respect of Appeal cases taken against the Office of the Pensions Ombudsman. This income was remitted in full to the Department of Social Protection as Appropriations-in-Aid.

3 Remuneration

(a) Remuneration and Other Pay Costs

	2016	2015
	€	€
Wages and Salaries	330,787	343,395
Staff Secondment Costs	36,398	23,468
Travel	147	1,380
Retirement Benefit Costs	9(a) 16,997	44,666
Total	384,329	412,909

A total of €24,625 (2015: €34,089) was deducted from staff salaries by way of pension related deductions and retained by the Department of Social Protection.

Up to May 2016 one employee was seconded to the Office of the Pensions Ombudsman from the Financial Services Ombudsman's Bureau of Ireland. Also included in the secondment costs above is the proportionate charge attributable to the Office of the Pensions Ombudsman for the services of Mr. Ger Deering – who was appointed as Pensions Ombudsman from 18th May 2016. Mr. Deering concurrently holds the position of Financial Services Ombudsman.

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

**3 Remuneration (continued)
(b) Employee Numbers**

The average number of employees during the period was made up as follows

	2016	2015
Ombudsman	1	1
Administrative Staff	6	5
	7	6

(c) Ombudsman Salary

	2016	2015
	€	€
Salary	63,743	93,490

Mr. Paul Kenny retired as Pensions Ombudsman on 17th May 2016 and Mr. Ger Deering was then appointed in the role. Mr. Deering also holds the position of Financial Services Ombudsman. In light of this no additional salary is payable to Mr. Deering as Pensions Ombudsman, although from May 2016 a portion of his employment cost is attributable to the Pensions Ombudsman's Office.

(d) Employee Salaries over €60,000 per annum

	2016	2015
	Number of	Number of
	Employees	Employees
Band		
€70,000 - €80,000	1	2
€80,000 - €90,000	1	-
€90,000 - €100,000	-	1
	2	3

4 Operating Expenditure

	2016	2015
	€	€
General Expenses	4,344	9,942
Postage and Telecommunications	2,618	7,431
Printing and Stationery	3,321	4,168
IT/Office Machinery (Non-Asset)	7,497	9,216
Audit Fee	10,000	10,500
Maintenance	837	18,592
Rent and Service Charges	80,408	60,889
Depreciation	6,152	7,833
Loss on Disposals / Transfers	627	3,699
	115,804	132,270

5 Property, Plant and Equipment

	IT Hardware, Software & Office Equipment	Furniture and Fittings	Total
	€	€	€
Cost			
Balance at 1 January 2016	75,564	97,394	172,958
Additions	2,429	-	2,429
Disposals	(3,545)	-	(3,545)
Balance at 31 December 2016	74,448	97,394	171,842
Depreciation			
Balance at 1 January 2016	(73,615)	(50,359)	(123,974)
Acc Dep on Disposals	2,918	-	2,918
Charge for the year	(926)	(5,226)	(6,152)
Balance at 31 December 2016	(71,623)	(55,585)	(127,208)
Net Book Value			
At 1 January 2016	1,949	47,035	48,984
Net movement for the year	876	(5,226)	(4,350)
Balance at 31 December 2016	2,825	41,809	44,634

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

6 Capital Account	€	€
Balance at 1 January 2016		48,984
Purchase of Fixed Assets	2,429	
Amortisation in line with Depreciation	(6,152)	
Loss on Disposals	<u>(627)</u>	
Transfer from Income and Expenditure and Retained Revenue Reserves Account		(4,350)
Balance at 31 December 2016		<u><u>44,634</u></u>

7 Receivables and Prepayments	2016	2015
	€	€
Prepayments	<u>7,274</u>	<u>8,217</u>

8 Payables	2016	2015
Amounts falling due within one year	€	€
Creditors	48,460	11,564
Audit Fee	10,000	10,500
Holiday Pay Accrual	1,576	5,170
	<u>60,036</u>	<u>27,234</u>

9 Retirement Benefit Costs for the Pensions Ombudsman

(a) Analysis of total retirement benefit costs charged to the Statement of Income and Expenditure and Retained Revenue Reserves

	2016	2015
	€	€
Current Service Cost	8,000	30,000
Interest on Retirement Benefit Scheme Liabilities	11,000	20,000
Employee contributions	(2,003)	(5,334)
Funds recoverable in respect of current year pension costs	<u>16,997</u>	<u>44,666</u>

(b) Movement in net retirement benefit obligation during the financial year

	2016	2015
	€	€
Net Retirement Benefit Obligation at 1st January	406,000	336,000
Current Service Cost	8,000	30,000
Past Service Cost	-	-
Interest Cost	11,000	20,000
Actuarial (gain)/loss	(27,000)	20,000
Retirement Benefits paid in the year	(68,000)	-
Net Retirement Benefit Obligation at 31st December	<u>330,000</u>	<u>406,000</u>

(c) Deferred Funding for Retirement Benefits

The Office of the Pensions Ombudsman recognises this amount as an asset corresponding to the unfunded deferred obligation for retirement benefits on the basis of the set of assumptions described at (e) and a number of past events. These events include the statutory basis for the establishment of the retirement benefit scheme and the policy and practice currently in place in relation to funding public service pensions including contributions by employees and the annual estimates process. The Office of the Pensions Ombudsman has no evidence that this funding policy will not continue to meet such sums in accordance with current practice.

The net deferred funding for retirement benefits recognised in the Statement of Income and Expenditure and Retained Revenue Reserves was as follows:

	2016	2015
	€	€
Funding recoverable in respect of current year retirement benefit costs	19,000	50,000
	<u>19,000</u>	<u>50,000</u>

The deferred funding asset for pensions as at 31 December 2016 amounted to €330,000 (2015: €406,000).

**Office of the Pensions Ombudsman
Financial Statements for the
Year Ending 31 December 2016**

9 Retirement Benefit Costs for the Pensions Ombudsman (continued)

(d) History of defined benefit obligations

	2016	2015	2014	2013	2012
	€	€	€	€	€
Defined Benefit Obligations	330,000	406,000	336,000	315,000	294,000
Experience losses/(gains) on defined benefit scheme liabilities	(27,000)	20,000	(26,000)	(25,000)	(9,000)
Percentage of the present value of scheme liabilities	-8%	5%	-8%	-8%	-3%

(e) General Description of the Scheme

The retirement benefit scheme is a defined benefit final salary pension arrangement with benefits and contributions defined by reference to current "model" public sector scheme regulations. The scheme provides a pension (one eightieth per year of service), a gratuity or lump sum (three eightieths per year of service) and spouse's and children's pensions. Normal retirement age is a member's 65th birthday, and pre 2004 members have an entitlement to retire without actuarial reduction from age 60. Pensions in payment (and deferment) normally increase in line with general public sector salary inflation.

The valuation used for FRS 102 disclosures has been based on the actuarial valuation completed by a qualified independent actuary, taking account of the requirements of the FRS in order to assess the scheme liabilities at 31 December 2016.

The principal actuarial assumptions were as follows:

	2016	2015
Rate of increase in salaries	2.50%	2.50%
Rate of increase in pensions in payment	2.50%	2.50%
Discount Rate	1.85%	2.35%
Inflation Rate	1.75%	1.75%

The mortality basis adopted allows for improvements in life expectancy over time, so that life expectancy at retirement will depend on the year in which a member attains retirement age (age 65). The table below shows the life expectancy for members attaining age 65 in 2015 and 2016.

	2016	2015
Years of attaining age 65		
Life expectancy - male	86	87
Life expectancy - female	89	90

10 Premises

In preparation for the planned amalgamation with the Financial Services Ombudsman's Bureau, the staff of the Office of the Pensions Ombudsman moved in 2015 to co-locate with the Bureau, when additional office space became available at Lincoln House, Lincoln Place, Dublin 2. The lease for this additional space was taken out by the Financial Services Ombudsman's Bureau from 1st March 2015, with 40% chargeable to the Office of the Pensions Ombudsman. The rent and services charges payable in the 2016 year by the Office of the Pensions Ombudsman for the premises at Lincoln Place amounted to €80,408.

11 Amalgamation with the Financial Services Ombudsman's Bureau

As part of the Public Service Reform Programme, the Government decided in April 2013 to amalgamate the Office of the Pensions Ombudsman with the Financial Services Ombudsman's Bureau. This will require enabling legislation, the drafting of which was not completed in the 2016 year.

However, in May 2017 the Minister for Public Expenditure and Reform published the Financial Services and Pensions Ombudsman Bill 2017, describing it as a priority piece of legislation. It is anticipated that the legislation to give effect to the amalgamation will be enacted in the 2017 year.